

## General Terms and Conditions

### 1. Area of application

- 1.1 These General Terms and Conditions ("T&C") come into force on the date indicated as "Status", apply to all customers within Switzerland and become an integral part of all contracts between Kyowa Kirin Sàrl ("Kyowa Kirin") and customers upon order confirmation, at the latest upon receipt of the goods.
- 1.2 Deviations from these T&C require a separate agreement, at least in text form via e-mail.
- 1.3 Terms and conditions of the customer that deviate from these T&C shall not become part of the contract, even if reference is made to them in an order, unless they are expressly recognised in writing by Kyowa Kirin. The T&C shall also apply to all future business relationships with the customer, even if they are not expressly included again.
- 1.4 In addition to these T&C, the Regulation on Returns of Kyowa Kirin applies. This can be viewed at any time at <https://international.kyowa-kirin.com/ch/index.html>.

### 2. Conclusion of contract

- 2.1 All offers from Kyowa Kirin are subject to change and non-binding and represent an invitation to the customer to submit an offer. Only an order placed by the customer is a binding offer. Kyowa Kirin is entitled to accept this offer by sending an order confirmation (in writing or in text form via e-mail) or by sending the ordered goods, in both cases however at the latest within 2 weeks of receipt of the order. If neither an order confirmation is sent nor the goods are dispatched within the two weeks, the customer is released again or the offer loses its effect.
- 2.2 The period according to section 2.1 only begins when the customer, in addition to his order, has also provided evidence that he is authorised to purchase the ordered products. Such proofs are Pharmacy operating licence, operating licence of a hospital pharmacy or an official approval of the hospital supply contracts from which the term of the operating licence or approval results or the wholesale authorisation. If such proof has been provided, the customer does not have to send it again until 12 months have elapsed. This does not apply to changes to such evidence; the customer shall report these to Kyowa Kirin immediately.

### 3. Prices

Price lists are subject to change. Earlier price lists lose their validity upon publication of current price lists. Invoicing shall be based on the prices valid on the day of delivery. All prices quoted are net prices including packaging plus the applicable statutory value added tax and transport costs, taking into account sections 4.2 et seq. of the German Civil Code.

### 4. Delivery and delivery time

- 4.1 Delivery deadlines are non-binding. Binding delivery dates require a delivery commitment by Kyowa Kirin, at least in text form (via e-mail) and labelled as "binding", in order to be effective. If a binding delivery date has been agreed, timely delivery shall be deemed to have taken place if the order is dispatched on the agreed date.
- 4.2 Orders are delivered postage paid. If the customer requests a special type of dispatch (e.g. express delivery), he shall always bear the additional costs incurred for transport and packaging.
- 4.3 With the delivery of the goods ex warehouse (Incoterms 2020), Kyowa Kirin has fulfilled its main contractual obligation. The goods are dispatched at the behest of the customer (sales shipment), even if Kyowa Kirin bears the costs of delivery. The risk of performance and price

(transfer of risk) is therefore transferred to the customer at the time the goods are handed over to a transport company. Kyowa Kirin is free to choose the transport company and the means of transport.

- 4.4 Delivery shall be made to the delivery address specified when the order is placed. It is agreed that the person found at the specified delivery address is authorised to accept the delivery.
- 4.5 Partial deliveries are permitted; the customer will not incur any additional costs for postage and packaging.
- 4.6 The delivery is subject to timely and correct self-delivery. If Kyowa Kirin is not supplied on time despite concluding a covering transaction for reasons for which it is not responsible, Kyowa Kirin is entitled to withdraw from the contract. Kyowa Kirin undertakes to inform the customer immediately of the non-availability of the goods if it is not supplied in good time and to reimburse any payments already made by the customer without delay. If a delivery date is not met for reasons for which Kyowa Kirin is responsible, the customer must set Kyowa Kirin a reasonable period of grace in writing. This shall not apply if the setting of a grace period is exceptionally dispensable. Claims for damages against Kyowa Kirin due to late delivery or non-delivery can only be asserted against Kyowa Kirin in cases of intent and gross negligence.
- 4.7 If unforeseen events occur for which Kyowa Kirin is not responsible (in particular force majeure, operational disruption, lawful strikes at Kyowa Kirin or a supplier), which significantly affect the completion or delivery of the products, the delivery time shall be extended by the duration of the hindrance. During this time, the customer has no rights or claims against Kyowa Kirin due to delay. This shall also apply if such hindrances occur at a subcontractor.

### 5. Area restriction

The customer undertakes not to export the products to a country outside Switzerland or the European Economic Area (EEA). Furthermore, the customer undertakes not to sell or otherwise transfer the products to a third party without also obliging the third party to comply with this export ban. In addition, the customer undertakes not to sell or otherwise transfer the products to a third party if it knows or has reason to believe that this third party will or could possibly export the products from Switzerland or the EEA.

### 6. Notice of defects and warranty

- 6.1 The customer must notify the transport company directly of any recognisable defects in the packaging on receipt of the goods and make a note of this on the acknowledgement of receipt. The customer must also notify Kyowa Kirin of such defects immediately, but at the latest within 3 working days of delivery.
- 6.2 The customer is also obliged to inspect the delivered goods immediately after delivery and to notify Kyowa Kirin of existing defects without delay, but no later than 7 working days after delivery. Hidden defects must be reported by the customer immediately, but at the latest within 3 working days of their discovery.
- 6.3 If a complaint is not made in good time in the cases referred to in sections 6.1 and 6.2 above, the goods shall be deemed to have been approved and shall be excluded from the warranty. Any notification must be made at least in text form (via e-mail) and must state the order data (invoice or delivery note number).
- 6.4 The return of the goods must be reported in advance to Alloga AG ("Alloga"), the warehouse and logistics service provider of Kyowa Kirin, by email to [kundenservice@alloga.ch](mailto:kundenservice@alloga.ch) with the following details:
  - Order or delivery number (exception: batch recall)
  - Article number or Pharmacode incl. article description
  - Batch number

- Number of pack(s) affected
  - Photo documentation
- In the case of chilled products, notification must be made to Alloga on the day of delivery of the product. Photos must be taken for each damage report, documenting the following points:
- Defective products, if possible with a recognisable batch
  - Container number
  - Contents and any padding
  - If the contents of original cartons are defective, the carton and its label must be photographed.

- 6.5 Alloga's returns department will take back the goods after consultation with Kyowa Kirin. In the case of a GDP-compliant return, Alloga will send further instructions and documents. The confirmation of correct storage must be signed by the person responsible for the returning party on the day of collection and sent back to Alloga.
- 6.6 For non-GDP-compliant returns of small consignments, Alloga will provide a GAS label (business reply label) with which the products can be returned postage paid by post.
- 6.7 For defects claimed by a customer, Kyowa Kirin is entitled, at its own discretion, to deliver a replacement or credit the value of the goods.

### **7. Terms of payment and default**

- 7.1 Receivables from invoices are due for payment without deductions within 30 calendar days of the invoice date.
- 7.2 If the customer defaults after Kyowa Kirin has sent a reminder to no avail, the statutory provisions and default interest pursuant to Art. 104 Para. 1 CO shall apply. Kyowa Kirin reserves the right to postpone the fulfilment of further orders in the event of late payment or to deliver only against advance payment or cash on delivery.

### **8. Offsetting**

The customer shall only have the right to offset if his counterclaims have been legally established or have been expressly recognised by Kyowa Kirin, at least in text form (e-mail).

### **9. Retention of title**

- 9.1 All delivered goods remain the property of Kyowa Kirin until the purchase price has been paid in full. Kyowa Kirin is authorised to have the retention of title entered in the relevant registers.
- 9.2 The customer is authorised to resell the goods subject to retention of title exclusively in the ordinary course of business. Under no circumstances may the goods subject to retention of title be transferred to third parties as security.
- 9.3 In the event of the sale of goods subject to retention of title, the purchase price paid to the customer shall take the place of the goods. The customer hereby assigns to Kyowa Kirin all claims arising from a sale, whether before or after processing. The customer is authorised to collect these claims himself as long as he meets his payment obligations to Kyowa Kirin.
- 9.4 Should the aforementioned securities exceed the value of the claims to be secured by more than 10%, Kyowa Kirin shall be obliged to release the securities at its own discretion at the customer's request.
- 9.5 In the event that bankruptcy proceedings are opened against the customer or the goods subject to retention of title are seized from the customer, the customer is obliged to notify Kyowa Kirin immediately in writing, sending a copy of the respective bankruptcy order or the notice of seizure. The customer is also obliged to immediately submit a notarised written declaration to the competent bankruptcy or debt enforcement office stating that the goods received from Kyowa Kirin (and, if applicable, seized) are the property of Kyowa Kirin.

is subject to a reservation of title by Kyowa Kirin.

### **10. Liability**

- 10.1 Kyowa Kirin shall only be liable for the damage caused by it damage arising from the contractual relationship, provided that the customer proves that Kyowa Kirin caused the damage through gross negligence or wilful intent. Any liability for slight and medium negligence is excluded. Any further liability, in particular for indirect damage and consequential damage, in particular loss of profit or loss of data and reputation as well as claims by third parties, is excluded.
- 10.2 Liability for culpable injury to life, limb or health and liability under the German Medicines Act and/or Product Liability Act shall remain unaffected.

### **11. Statute of limitations**

Customer claims for material defects shall become time-barred one year after the transfer of risk.

Excluded from this are claims due to injury to life, limb or health as well as claims for damages based on grossly negligent or wilful behaviour on the part of Kyowa Kirin. In this respect, the statutory limitation periods pursuant to Art. 127 OR shall apply.

### **12. Data protection**

Kyowa Kirin processes data in connection with contractual relationships on the basis of Art. 6 (1) b GDPR (General Data Protection Regulation) and the provisions of the Federal Act on Data Protection (DSG). As Kyowa Kirin uses Alloga to accept orders, deliver medicines and issue invoices, the details of the delivery and billing address and/or the recipient must be passed on to Alloga. In this case, Kyowa Kirin undertakes to delete the personal data immediately, unless an order process has not yet been fully processed or legal regulations require corresponding retention periods. Further information and notes on data protection can be found in Kyowa Kirin's privacy policy, which can be viewed at [https://international.kyowa-kirin.com/share/germany-data-protection/KK\\_Deutschland\\_GmbH\\_Datenschutzerklaerung\\_20210.pdf](https://international.kyowa-kirin.com/share/germany-data-protection/KK_Deutschland_GmbH_Datenschutzerklaerung_20210.pdf).

### **13. Place of jurisdiction and applicable law**

The exclusive place of jurisdiction for all disputes arising from this contractual relationship is Zurich. Swiss substantive law shall apply exclusively, excluding the UN Convention on Contracts for the International Sale of Goods and the conflict of laws.

### **14. Severability clause**

Should any provision of these T&C be or become invalid or void, the validity of all other provisions of these T&C and any individual contractual provisions shall remain unaffected.

Valid from (status): 1 November 2023